IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 3514 OF 2007

Honey Machines Pvt. Ltd.,
& Ors. .... .. Petitioners.

vs.

The State Government of
Maharashtra & Ors. .. Respondents.

Ms. Kiran Bagalia with Ms. Kirti Kokil
for Petitioners.
Mr. V.Z. Kankaria i/by A.S. Pratinidhi
for respondent no. 4.
Ms. J.S. Pawar,Addl. G.P., for R. Nos. 1 & 2.

..

CORAM: J.N. PATEL &
A.A. SAYED, JJ.
DATE: 9TH AUGUST 2007.

P.C.

. Heard.

2. The petitioners have approached this Court seeking quashing of the order dated 19.1.2007 passed by the respondent Collector whereby he has ordered stay to

the N.A. permission granted to the petitioners on 12.12.2006 and has further sought the relief against the order passed by the Municipal Corporation on 3.2.2007 requiring the petitioners to stop further construction and during the pendency of the petition the petitioners should be allowed to carry out construction in accordance with the plans and commencement certificate dated 5.10.2006 issued by the Pune Municipal Corporation.

3. We have heard the learned counsel for the parties and gone through the record. It was contended on behalf of the learned counsel for the petitioners that the Collector has no power to review its own order and once having granted N.A. permission he could not have stayed the same thereby affecting the project of the petitioners. It is submitted that in absence of any such power vested in the Collector the order deserves to be quashed and set aside. On the other hand, it is contended by the learned counsel appearing for respondent no. 4 that the order passed by the Collector granting N.A. permission to the petitioners adversely affects the interest of respondent no. 4 and after seeking necessary information they have informed the Collector and objected to having granted the N.A. permission for construction to the petitioners as per the plan sanctioned by the Pune Municipal Corporation in respect of land bearing Survey No. 18/6 Old (18/10 new) situated at Mouje Bavdhan,Taluka Mulshi, District

Pune.

4. The subject matter of the dispute is the D.P. Road which, according to the petitioners, is in accordance with the regional town plan approved by the State Government. It is not disputed that after the State Government had approved the regional town plan, the limits of Pune Municipal Corporation were extended so as to cover the survey number of the petitioners where they propose to carry out development and use the land for non-agricultural purposes. It is also not disputed that the approved plan prepared by the Pune Municipal Corporation is pending with the State Government for approval.

5. Taking into consideration the aforesaid facts and circumstances, we find nothing wrong on the part of the Collector in passing the impugned order. The Collector has filed an affidavit in response to the writ of this Court and has clearly stated that he would hear the parties in the matter and then pass appropriate orders. We do not think that such power does not vest in the Collector and it will not be proper for us to intervene in the matter in exercise of our writ jurisdiction. We, therefore, dismiss the petition.

6. The Collector in his affidavit in reply has also stated that he will pass appropriate orders after

hearing the parties as expeditiously as possible. We expect that the Collector shall take up the matter for hearing after giving notice to all concerned parties and proceed to pass necessary orders as expeditiously as possible and preferably within three months from the date of communication of this order. The counsel for the petitioners to communicate this order to the Collector.

(J.N. Patel, J.)

(A.A. Sayed, J.)